

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Richmond Division**

RENEE GALLOWAY, *et al.*, on behalf of  
themselves and all individuals similarly situated,

Plaintiffs,

v.

JUSTIN MARTORELLO, *et al.*,

Defendants.

Case No. 3:19-cv-00314-REP

**PLAINTIFFS' REPLY MEMORANDUM IN SUPPORT OF MOTION TO ENFORCE  
COMPLIANCE WITH § 3.5 OF THE SETTLEMENT AGREEMENT**

Plaintiffs, by and through counsel, submit this Reply Memorandum in Support of their Motion to Enforce Compliance with § 3.5 of the Settlement Agreement. Under Local Rule 7(F)(1), the trustee was required to respond to Plaintiffs' motion no later than November 8, 2024.<sup>1</sup> Because no response was filed,<sup>2</sup> the Court should treat the motion as unopposed and enter the Proposed Order submitted by Plaintiffs.

Respectfully submitted,  
**PLAINTIFFS**

Date: November 12, 2024

\_\_\_\_\_  
/s/

<sup>1</sup> Attached is a delivery confirmation for the service of the motion. *See* Ex. 1.

<sup>2</sup> Mrs. Martorello opposed the in-person attendance of the trustee, but she lacks standing to make this objection as she is a separate party. Furthermore, Mrs. Martorello's opposition correctly acknowledges that the Settlement Agreement is silent on whether the participation can be by telephone or in-person. When an agreement is silent, however, it "is necessary to examine the pertinent provisions in the agreement and the surrounding circumstances to ascertain that intent." *ExxonMobil Oil Corp. v. Black Stone Petroleum Inc.*, 221 F. Supp. 3d 755, 765 (E.D. Va. 2016) (citation omitted). Here, the Settlement Agreement potentially resolves 7 years of litigation, involves a complex transaction, and creates a settlement fund to be distributed to consumers across the country. Although silent on the method of participation, it should be no surprise and should be expected that in-person participation can be required under the circumstances.

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